REMARKS

Claims 1 – 21 are pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 112

Claims 13 – 15 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

Claim 13 was rejected because the language "said theoretical traction load" was without antecedent basis. Claim 13 has been amended to include the language "said traction load", which finds sufficient antecedent basis in claim 9 as originally filed.

REJECTION UNDER 35 U.S.C. § 102

Claims 1 – 21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kondo et al. (U.S. Pat. No. 5,655,995). This rejection is respectfully traversed.

Claims 1, 9 and 16 have been amended to include selectively inhibiting a downshift of the transmission based on a current traction load and a traction load. Kondo et al. fails to teach or suggest selectively inhibiting a downshift of the transmission based on a current traction load and a traction load and shifting the transmission if the driving conditions are met.

The present invention selectively inhibits downshift of the transmission to ensure that the vehicle does not lose traction as a result of the transmission shift. More specifically, a current traction load (e.g., CTL) is compared to a traction load (e.g., MTTL) and determines whether to inhibit a downshift based thereon.

Kondo et al. discloses a system that adjusts the shift points of an automatic transmission based on driver performance. More specifically, a shift pattern setting device (2008) changes the shift pattern of the transmission from a standard shift pattern (see Col. 19, Lines 48 – 55). For example, if the driver is driving more aggressively

(i.e., sporty), the shift pattern is changed so that the upshift timing (i.e., vehicle speed and engine load point) is delayed and the downshift timing (i.e., vehicle speed and engine load point) is advanced. In this manner, the engine is operated in a high speed region to provide high output. (see Col. 20, Lines 1 – 11). However, transmission shifts are still based only on vehicle speed and engine load (see Col. 19, Lines 41 – 47).

The system disclosed in Kondo et al. determines a degree of aggressiveness (SP(i)) (i.e., sporty driving) based on a degree of engine performance usage (SPTE) and a degree of tire performance usage (SPG) (see Col. 21 – 22, Equations 13 – 15). SPG indicates the degree to which grip performance of the tire is used and is based on a lateral acceleration (GY) and a longitudinal acceleration (GX) (see Col. 21, Equation 12). The transmission shift pattern is changed based on SP(i) (see Col. 22, Lines 23 – 28). More specifically, a driving characteristic equivalent shift pattern is determined by interpolating shift points between a normal shift pattern and a sporty shift pattern based on SP(i) (see Col. 22, Lines 29 – 41).

In summary, the system disclosed in Kondo et al. adjusts the transmission shift pattern to match the driver's aggressive driving habits. However, actual transmission shifts are commanded based only on vehicle speed and engine load (see Col. 19, Lines 41 – 47). Therefore, Kondo et al. fails to teach or suggest selectively inhibiting a downshift based on a current traction load and a traction load. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Claims 2 – 8 ultimately depend from claim 1, which defines over the prior art as discussed in detail above. Therefore, claims 2 – 8 define over the prior art for at least the reasons discussed with respect to claim 1, and reconsideration and withdrawal of the rejections are respectfully requested.

Claims 10 – 15 ultimately depend from claim 9, which defines over the prior art as discussed in detail above. Therefore, claims 10 – 15 define over the prior art for at least the reasons discussed with respect to claim 9, and reconsideration and withdrawal of the rejections are respectfully requested.

Claims 17 – 21 ultimately depend from claim 16, which defines over the prior art as discussed in detail above. Therefore, claims 17 – 21 define over the prior art for at

least the reasons discussed with respect to claim 16, and reconsideration and withdrawal of the rejections are respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (313) 665-4969.

If for some reason a fee needs to be paid please charge Deposit Account No. 07-0960 for the fees, which may be due.

Respectfully submitted,

Dated: 2-7-05

By: _____

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